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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/004,985

12/03/2001

Charles H. Culp

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1555)

9239

7590

02/04/2005

EXAMINER

PALADINI, ALBERT WILLIAM

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ART UNIT

PAPER NUMBER

2125

DATE MAILED: 02/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/004,985	CULP ET AL.	
	Examiner	Art Unit	
	Albert W Paladini	2125	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/17/02</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

2. Claims 1-41 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1

Lines 17-19 recite, "identifying a retrofit of an energy consumption system of the facility based on the energy consumption efficiency. The first energy consumption model recited in lines 9-11 is based upon facility data and external variable data. Since the same facility data and external variable data is used to generate the second energy consumption model recited in lines 12-13, it would be assumed that the energy consumption of both models would be the same. Therefore, no comparison can be made to determine energy consumption efficiency.

Claim 20

Lines 23-27 recite "an analysis engine residing in the memory and executable by the processor, the analysis engine operable to determine energy consumption efficiency for the facility based on the first and second energy consumption models." The first and second energy consumption models recited in lines 15-22 are both based

upon the same facility data and external variable data, so that it would be assumed that the energy consumption of both models would be the same. Therefore, no comparison can be made to determine energy consumption efficiency.

Appropriate correction and clarification are required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-41 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith (6785592).

This rejection is made to the extent that the claims are understood by considering how the recited elements may be combined to achieve the goals recited in the preamble.

In figure 2, Smith discloses a system and method for optimizing energy consumption for one or more facilities. The energy services center 230 feeds data from energy consumption models, which are obtained from (386, figure 3) to optimization workstation 366. The optimization algorithms utilized data obtained from data acquisition metering devices (320, figure 3) The optimization algorithms compares every energy consumption model with every other energy consumption model, and selects the best optimization model. This is implemented by real time control of the various,

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discrete building systems and subsystems. Although smith does not explicitly use the term "retrofit", the process of changing the system to optimize energy consumption may be considered a retrofitting operation.

Relevant Prior Art

Wedekind (5115967) discloses a method for optimizing climate control energy consumption in a building. An assembly has a processor for storing a non-linear efficiency model, and receiving inside and outside air temperatures, and changing at least one parameter utilizing the results of the non-linear model.

Cmar (5566084) discloses a process for identifying energy consumption and demands which utilizes regression models to ascertain the change or physical parameters on energy consumption, etc, and which results in a retrofitting operation dependent on the parameters to be optimized.

Takeyama (5852560) discloses an apparatus that assesses a load that industrial products add to the environment by comparing a plurality of energy consumption models utilizing environmental load equations.

Gruber (6439469) discloses á predictive apparatus for controlling or regulating supply values, wherein the apparatus is provided with: a first data store, in which rules, based on a linear consumer model, for calculating process values are stored, a second data store, in which the rules for restrictions or limit values to be observed for process values and values derived from process values are stored, and means for repeatable optimizing of the energy consumption or of the energy costs with the aid of linear or quadratic programming, wherein the means is configured such that the optimizing can be carried out over a sliding time horizon.


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5. Any inquiry concerning this communication or earlier communication from the examiner should be direct to Albert W. Paladini whose telephone number is (571) 272-3748. The examiner can normally be reached from 7:30 to 3:30 PM on Monday, Tuesday, Thursday, and Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Leo P. Picard, can be reached on (571) 272-3749. The official fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

February 3, 2005


Albert W. Paladini
Primary Examiner
Art Unit 2125